

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 429 (S/B) 2003

Jiwan Chandra Joshi,
S/o Late Shri B.R. Joshi,
Presently posted as Senior Clerk-cum-Cashier,
Nainital-Almora Regional Rural Bank,
Branch Office Harara,
Distt. Almora

Petitioner

Versus

Union of India,
Through Secretary,
Ministry of Finance, Deptt. of Economic Affairs,
(Banking Division), Govt. of India,
New Delhi & others

Respondents

Mr. Manoj Tewari, Advocate for the petitioners.
Mr. G.S. Bist, Standing Counsel for Govt. of India.
Mr. C.K. Sharma i/b R.K. Raizada for respondent No. 4.

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Hon'ble S.H. Kapadia, C.J.
Hon'ble M.M. Ghildiyal, J.

Date: 10.11.2003

PC:-

By this writ petition petitioners seeks to challenged Re-deployment Scheme prepared by Respondent No. 1, Union of India as ultra vires the provisions of Regional Rural Banks Act 1976.

FACTS

Nainital-Almora Regional Rural Bank was established in 1983 under the above Act 1976 with the object of developing rural economy under section 17 of the said Act, however, Regional Rural Bank is empowered to appoint its own officer. Under the proviso to section 17, a sponsor bank is empowered to send in the first five years of functioning of Regional Rural Bank, its officers on deputation to the said bank. Under section 24 of the Act 1976. Regional Rural Banks are required to follow directions from Central Government in matters of policy involving public interest. Section 29 empowers Central Government to make rules.

In exercise of powers under section 30 of the Board of Directors of Nainital-Almora Regional Rural Bank formulated Staff Service Regulation 1983 with effect from 26th November 1983. Under the Regulations the posts in the Bank consisted of officers and employees including Senior Clerk-cum-Cashier, Junior Clerk-cum-Cashier etc.

By notification dated 28th September 1988 the Central Government notified the Regional Rural Banks' Appointment and Promotion of Officers Rules, 1988 which were framed under section 29 of the above Act. According to the second schedule of the said Rules the posts of officers were to be filled by direct recruitment (50%) and by promotion (50%) whereas the posts of Clerk-cum-Typist were to be filled in by direct recruitment alone. On 15th June 1999 the Central Government issued a Circular wherein it is provided that vacancies in Regional Rural Banks due to promotions may be filled up by re-deployment of staff from one branch to another within the same bank and from one Regional Rural Bank to another where the sponsor bank is the same. The said Circular was issued in view of the economic difficulties faced due to prohibition of fresh recruitment of employees in Regional Rural Bank.

Learned Advocate for the Petitioner argued that Re-deployment Scheme was bad in law, arbitrary and violative of the fundamental rights of the employees under Article 14 & 16 of the Constitution and also in view of the fact that there was no provision in the said Act 1976 to enact such Re-deployment Schemes. We do not find any merit in this argument. Under section 24 of the Act 1976 in public interest the Central Government can issue directions. The Re-deployment Scheme had to be introduced as there was a ban on direct recruitment. In order to give effect to the ban the said Scheme have to be introduced. If such Scheme would not have been introduced then the working of the banks would be affected for want to staff. Re-deployment Schemes generally are a part of economic measure. When the

finances of the bank are not adequate they cannot recruit employees directly as it would cause enormous burden whereas in the case of re-deployment there is a minimum financial burden imposed on the Regional Rural Bank. It is for this reason that the Central Government has issued directions under section 24 of the Act 1976. Further, in the counter affidavit it has been categorically mentioned that the Re-deployment Scheme is introduced only qua direct recruitment and vacancies arising under direct recruitment and it is not against the promotees quota. In the circumstances, there is no merit in the above arguments of the petitioner. We may also point out that the petitioner was considered for promotion earlier. He had appeared for the written examination. He failed. In this regard there is a separate writ petition pending in this Court. In the circumstances, there is no merit in the writ petition.

However, learned Advocate for the petitioner has contended by filing further affidavits that the Nainital-Almora Regional Rural Bank is deliberately not filling in the promotional posts. He has further contended that the Re-deployment Scheme will also affect the promotional avenue of the employees in officers Scale-I. This has been denied in the counter affidavit by the Respondent No. 4. These are disputed facts which cannot be gone under the writ petition under Article 26. If so advised, the Petitioner is at liberty on this point to raise the dispute the Central Industrial Tribunal under the Industrial Dispute Act, 1947.

Accordingly, writ petition is disposed of.

(M.M. Ghildiyal, J.)

(S.H. Kapadia, C.J.)

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